

AKIN GUMP
STRAUSS HAUER & FELD LLP

Attorneys at Law

KATHERINE M. KATCHEN
215.965.1239/fax: 215.965.1210
kkatchen@akingump.com

October 7, 2010

Via ECF

The Honorable Joel H. Slomsky
United States District Court
Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 5614
Philadelphia, Pennsylvania 19106

Re: *Templin, et al. v. Independence Blue Cross, et al.*
Civil Action No. 09-4092 (JHS) (E.D. Pa.)

Dear Judge Slomsky:

We write on behalf of defendants Independence Blue Cross (“IBC”) and QCC Insurance Company (“QCC”) in response to plaintiffs’ letter of October 5, 2010 (D.E. 44).

In its July 27, 2010 Order (the “Order”), this Court ruled that plaintiffs “failed to exhaust their administrative remedies as required by ERISA[,]” and that “it was not reasonable for Plaintiffs to seek immediate judicial review under the circumstances.” *Id.* at 2, 4. The Court ordered the parties to conduct an expedited appeals process under *existing* Plan procedures, with the provisos that the Second Level Appeal be conducted in person, with counsel, and transcribed for purposes of the administrative record. *Id.* at 5-6. IBC has followed and is following its Second Level Appeals process in these administrative proceedings, all of which would have been available to plaintiffs long ago had they properly exhausted their administrative remedies in the first instance.

Plaintiffs now demand a full, litigation-style adversarial hearing. Without support from ERISA precedent, Plan procedures or this Court’s Order, plaintiffs argue that the parties must “identify witnesses that they intend to call at the hearing[,]” “exchange exhibits[,]” and conduct an “evidentiary hearing[.]” Plaintiffs argue that it is not “fair” for the Second Level Appeal to proceed as to them unless the Court interjects itself into the administrative process and transforms it into a full-blown adversarial court proceeding. There is no support in fact or law for this position, and plaintiffs cite none.

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The Court's intervention is unnecessary as these appeals proceed through the administrative process.

Respectfully,

/s/ Katherine M. Katchen

cc: All counsel of record (*via email and ECF*)